

REMARKS

Claims 1-17 were pending in this application. By this Amendment, Applicant has added new claims 18-21. Accordingly, claims 1-21 are submitted for reconsideration.

Applicant appreciates the indication of allowable subject matter in claims 4, 9, 13 and 17.

In the Office Action, claims 1-3, 5-8, 10-12 and 14-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Colyer (U.S. Patent No. 6,023,722) in view of Bustini et al. (U.S. Patent No. 4,918,687). Claim 1 recites that a method for detecting and reacting to changes in depth of one or more queues which store messages processed by tasks executing in a computer system comprises setting a high threshold of a depth of the queue to a first value and detecting when the depth of the queue equals or exceeds the high threshold. The method further comprises raising the high threshold by a predetermined increment each time the depth of the queue equals or exceeds the high threshold.

In the rejection, the Examiner admitted that Colyer does not teach raising the high threshold by a predetermined increment each time the depth of the queue equals or exceeds the high threshold. The Examiner asserted, however, that Bustini teaches raising a high threshold each time the depth of the queue equals or exceeds the high threshold. Even if combinable with Colyer, Bustini fails to cure the deficiency of Colyer.

Bustini discloses that each Voice Link Output Queue in each node has an associated "over-threshold" counter (OT counter), which is initialized to zero (column 5, lines 28-32). The queue length is checked before queuing a packet, such that if the queue length is lower than threshold (see discussion of queue length and L, column 2, lines 33-36), then the packet is queued, but if the queue length is greater than or equal to threshold, the OT counter is incremented and the packet is queued (column 5, lines 33-40). Thus, according to Bustini, the threshold is not raised when the queue length equals or exceeds the threshold. Rather, it is the OT counter that is incremented, not the threshold of the queue length. The purpose of the OT counter is merely to count each time the queue length equals or exceeds the threshold when a packet is to be queued so as to determine the number of packets that exceed the threshold and thereby the number of packets that need to be clipped (see column 5, lines 16-26 and 41-53).

Accordingly, even if combinable, the combination of Colyer and Bustini fails to disclose or suggest raising the high threshold by a predetermined increment each time the



depth of the queue equals or exceeds the high threshold, as recited in claim 1. Rather, as discussed above, Bustini discloses incrementing the OT counter, not the threshold itself, when the depth of the queue equals or exceeds the threshold. Therefore, claim 1 is patentably distinguishable from the combination of Colyer and Bustini. Claims 2-3 are also patentably distinguishable from the combination of Colyer and Bustini by virtue of their dependency from claim 1, as well as their additional recitations.

Claims 5, 10 and 14 are patentably distinguishable from the combination of Colyer and Bustini for at least the same reasons as claim 1. Claims 6-8, 11-12, and 15-16 are also patentably distinguishable from the combination of Colyer and Bustini by virtue of their dependency from claims 5, 10 and 14, respectively, as well as their additional recitations.

Applicant respectfully submits that the application is in condition for allowance and request reconsideration. Should the Examiner have any questions or suggestions regarding this application, the Examiner is invited to contact the undersigned attorney at the telephone number shown below.

Respectfully submitted,

Date

August 29, 2002

By

Marc Weinstein

FOLEY & LARDNER  
Washington Harbour  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5109  
Telephone: (202) 672-5404  
Facsimile: (202) 672-5399

Marc K. Weinstein  
Attorney for Applicant  
Registration No. 43,250

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.